

Order

Michigan Supreme Court
Lansing, Michigan

May 26, 2006

Clifford W. Taylor,
Chief Justice

129263

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

KIM SAFFIAN,
Plaintiff-Appellee,

v

SC: 129263
COA: 250645
Cheboygan CC: 01-006896-NH

ROBERT R. SIMMONS, D.D.S.,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the July 7, 2005 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other peremptory action. MCR 7.302(G)(1). The parties shall include among the issues to be addressed at oral argument: (1) whether the default and default judgment should be vacated and the case remanded for an evidentiary hearing on the issue whether defendant's claim of clerical error to establish good cause for the failure to timely respond to the complaint was fraudulent or, if not fraudulent, was otherwise insufficient to constitute good cause for setting aside the default; (2) whether plaintiff's defective affidavit of merit was sufficient to commence a cause of action; and (3) if not, whether defendant was nevertheless required to file a timely answer or other response to the complaint under the circumstances of this case. The parties may file supplemental briefs within 42 days of the date of this order, but they should avoid submitting a mere restatement of the arguments made in their application papers.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 26, 2006

Corbin R. Davis

Clerk